

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA**

IN RE:

Doris Hazel Mexner,

Debtor(s).

C/A No. 16-02339-HB

Chapter 7

**ORDER ON MOTION TO
DETERMINE DATE OF
FILING OF CASE**

THIS MATTER came before the Court on the Motion filed on May 12, 2016, by Cedric Cunningham, counsel on behalf of the debtor Doris Hazel Mexner, seeking to establish the filing date of Mexner's Chapter 7 Voluntary Petition, Schedules, and Statements.¹ On May 11, 2016, a Creditor Matrix was filed on the Court's CM/ECF docket on behalf of Mexner but a Voluntary Petition was not attached as indicated on the docket entry. The Motion states: "Due to a computer error, the sufficient filings did not attach to the filing that was submitted to the Bankruptcy Court for the District of South Carolina on May 11, 2016." Mexner's Voluntary Petition, Schedules, and Statements were attached to and filed with the Motion on May 12, 2016.

A voluntary case under the Bankruptcy Code is commenced by the filing with the bankruptcy court of a petition by an entity eligible to be a debtor under the Bankruptcy Code. 11 U.S.C. § 301; *see also* Fed. R. Bankr. P. 1002; *see also In re Muse*, C/A No. 07-10665, 2010 WL 4501062, at *4 (Bankr. N.D.N.Y. Nov. 2, 2010) ("The statute says that a chapter 7 bankruptcy is commenced by the filing with the bankruptcy court of a petition, so the petition and only the petition commences the case, regardless of what else happens at the same time[.]"). "Historically, the date on which the bankruptcy petition is filed has been of pivotal importance. In fact, over the years, the bankruptcy petition has been one

¹ ECF No. 6, filed May 12, 2016.

of the few documents filed in federal court on which the hour and minute of filing are noted by the clerk.” *In re Chilson*, 525 B.R. 130, 135 (Bankr. D.N.M. 2015) (citing 1 Collier on Bankruptcy, 86 (14th ed.)); *see also In re Bauer*, No. 05-40208, 2005 WL 4705284, at *4 (Bankr. D. Idaho Aug. 22, 2005) (“In the age of electronic filing, the time that a petition is filed is tracked precisely and can be especially important.”). Pursuant to applicable law and Operating Order 13-03, the Court must find that the bankruptcy case was effective when Mexner filed the Voluntary Petition on May 12, 2016. Prior events and filings were not sufficient to commence a bankruptcy case.


IT IS, THEREFORE, ORDERED that the date of filing of the Voluntary Petition is May 12, 2016.

The Clerk of Court is directed to file at ECF No. 1 the Voluntary Petition, Schedules, and Statements, which are attached to the Motion, and may take any necessary action to make the Court’s docket reflect a filing date of May 12, 2016.

IT IS SO ORDERED.

**FILED BY THE COURT
06/07/2016**




US Bankruptcy Judge
District of South Carolina

Entered: 06/07/2016